THE HONOURABLE SRI JUSTICE C.V. RAMULU

W.P. NO. 22995 of 2006

Dated: 03-08-2007

Between:-

K.Santhosh Kumar and two others …Petitioners

And

The Hon'ble Central Government Industrial Tribunal-cum-Labour Court, Hyderabad represented by its Presiding Officer and two others.

…

Respondents.

THE HONOURABLE SRI JUSTICE C.V. RAMULU

Writ Petition No. 22995 of 2006

ORDER:

This Writ Petition is filed challenging the order dated 11-08-2006 passed in I.A.Nos.9, 10 and 13 of 2006 in L.I.C.D. Nos.67, 68 and 69 of 2005 on the file of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad.

It appears the petitioners have filed the above three claim petitions in the above three L.I.C.Ds. under Section 2-A (2) of the Industrial Disputes Act, 1947. During the trial of the case, it appears M.W.1 has referred to certain documents in his cross-examination. The petitioners-workmen, therefore, filed the respective I.As. seeking to call for the said documents along with some other documents for the purpose of proving that they are working in the organization for the last so many years and also that they had worked more than 240 days preceding the date of their termination.

The said application was resisted by the respondent-organization filing counter stating that the said documents are no way relevant and since the petitioners raised industrial dispute and stated that they have worked more than 240 days in a calendar year and that they are entitled for absorption, they have to prove their own case by producing necessary documents and they cannot compel the management to produce the documents. Aggrieved by the same, the present writ petition is filed. I am of the opinion that once the M.W.1 in his cross-examination referred to certain documents and an

application is filed by the petitioners stating that those documents are not in their possession and the documents are in the possession of the management, it is bounden duty of a Labour Court to call for such documents and examine as to whether they are useful for the purpose of considering the claim of the petitioners. Instead of doing that the Labour Court simply stated that it is for the petitioners to prove their case and they cannot ask the management to produce certain documents. This concept is accepted in general law civil proceedings, but such a concept cannot be invoked in a case of this nature where workmen come to the Court and claim that their services are terminated illegally and without complying with the provisions of 25 F of the Industrial Disputes Act. Always the records like muster rolls and other records handled by the petitioners while they were in the service of the organization will be in the custody of the management. I am of the opinion that the approach made by the Labour Court is contrary to the procedure to be followed while adjudicating an industrial dispute. It is not the case of the respondents that the documents were not referred to in the cross-examination of the M.W.1. Whether such documents are relevant and whether they are useful for the purpose of considering the case is altogether different matter, but in an industrial adjudication the Labour Court cannot say that the workman has to prove his own case by producing such documents, which are not in the custody of the workman in the normal course of business.

For all the above reasons, the common order dated 11-08-2006 passed in the I.A Nos.9, 10 and 13 of 2006 in L.I.C.D. Nos.67, 68 and 69 of 2005 on the file of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad, is set aside. I.As. are allowed accordingly. The Labour Court shall call for the records mentioned in the petitions forthwith.

The Writ Petition is allowed accordingly. No costs.

C.V.RAMULU, J.

03rd August, 2007.

skmr